[fol. 1129]

I.C.C. Docket No. 30140

PROTESTANT'S EXHIBIT NO. 70

Witness: Pettijohn

Net Railway Operating Income
Nine Months Ended September 30

District or Region	1948	1947	Percentage Increase
New England Region	$ 17,074,828	$ 9,164,645	86.5
Great Lakes Region	101,453,285	67,508,177	50.3
Central Eastern Region	127,146,221	81,226,019	56.7
Eastern District	$245,674,334	$157,898,841	55.6
Pocahontas Region	$ 72,990,912	$ 67,157,536	8.7
Southern Region	104,706,217	72,707,082	44.0
Southern District	$177,697,129	$139,864,618	27.0
Northwestern Region	$ 73,017,196	$ 61,356,581	19.0
Central Western Region	166,173,800	136,184,274	22.0
Southwestern Region	80,185,355	64,548,935	24.2
Western District	$319,376,351	$262,089,790	21.9
United States	$742,747,814	$559,853,249	32.7
Atlantic Coast Line RR Co., Florida East Coast Ry. Co., Seaboard Air Line RR Co.			
System	$ 16,881,889	$ 8,308,929	103.2
Florida	5,189,081	1,940,571	167.4

Authorities:

I.C.C. Statement No. M-100, for nine months ended September 30, 1948, for Districts and Regions.

Mo. Rept. Ser. No. 469, Association of American Railroads, Bureau of Economics for three principal Florida railroad system returns.

Monthly reports of revenues and expenses to Florida Railroad & Public Utilities Commission.

[fol. 1130] I.C.C. Docket No. 30140

PROTESTANT'S EXHIBIT NO. 71

Witness: Pettijohn

Net Railway Operating Income
Twelve Months Ended December 31

District or Region	1948	1947	Percentage Increase
New England Region	$ 23,848,868	$ 12,605,819	89.2
Great Lakes Region	138,697,035	93,419,416	48.5
Central Eastern Region	172,251,664	109,777,962	56.9
Eastern District	$ 334,797,567	$215,803,197	55.1
Pocahontas Region	$ 95,080,793	$ 88,622,970	7.3
Southern Region	138,971,107	103,771,466	33.9
Southern District	$ 234,051,900	$192,394,436	21.7
Northwestern Region	$ 101,670,938	$ 91,381,376	11.3
Central Western Region	222,558,773	190,627,441	16.8
Southwestern Region	109,273,145	90,231,833	21.1
Western District	$ 433,502,856	$372,240,650	16.5
United States	$1,002,352,323	$780,438,283	28.4
Atlantic Coast Line RR Co., Florida East Coast Ry. Co., Seaboard Air Line RR Co.			
System	$ 20,169,648	$ 13,383,694	50.7
Florida	6,595,211	4,111,045	60.4

Authorities:
I.C.C. Bureau of Transport Economics & Statistics, Statement No. M-100, for calendar years ended December 31, 1948 and December 31, 1947.
Annual Reports to Florida Railroad and Public Utilities Commission.

[fol. 1131] PROTESTANT'S EXHIBIT 98

Before the Interstate Commerce Commission

Docket No. 30140

Increases in Florida Intrastate Rates

Witness L. P. Hearn

Q. Mr. Hearn, please state your name, address and occupation, and detail as briefly as may be your experience in the paper industry and the duties of your position.

A. My name is L. P. Hearn, and I am Assistant Traffic Manager of International Paper Co., Mobile, Alabama. I have been engaged in traffic and transportation work since 1930, and have occupied my present position since 1937. I am familiar with paper mill operations and with the transportation problems involved in the procurement of raw materials and the distribution of finished products. One of my principal duties is the handling of rate adjustments on such raw materials and finished products.

Q. In what business is the International Paper Company engaged?

A. In the production and distribution of paper and paper commodities, with mills located at various points.

Q. Are its operations conducted in the State of Florida and, if so, where?

A. The mill of International Paper Company in Florida is located at Panama City.

Q. What are the commodities produced and distributed from that mill?

A. Predominantly container pulpboard made from unbleached sulphate kraft woodpulp.

Q. What is the basic raw material consumed by International Paper Company at Panama City in the manufacture of container pulpboard?

A. Pulpwood.

Q. What kind of pulpwood is used by your plant at Panama City?

A. Pine pulpwood is predominantly used at that plant. This pulpwood is second growth pine trees which are or have been grown on lands in Florida and Georgia which have been previously cut over in taking out the timber suitable for the production of lumber and lumber products. A considerable amount of this pulpwood consists of thinnings from Government or private lands, portions of trees not suitable for lumber and trees that have become deformed [fol. 1132] or diseased in connection with Naval Stores operations. The greater volume of this wood used at our Panama City mill comes from the farm lots in the states of Florida and Georgia.

Q. What are the transportation or rate-making characteristics of the commodity?

A. Pulpwood is a very low-grade commodity, worth less than $5.00 a ton on basis of the price of $11.25 per cord of 128 cu. ft. f. o. b. railroad cars which we are now paying. It moves in large volume throughout the year, in any sort of railroad equipment available, chiefly in wood rack and box cars, and loss and damage claims are unknown. My later testimony will include reference to these and other transportation factors.

Q. What does a cord of this pulpwood weigh?

A. In its green condition the average weight is approximately 5,000 ponds per cord of 128 cu. ft., and practically all of the pulpwood shipped, received and used in the paper mills of the South and Southwest, including Panama City, is in green condition.

Q. How many cords of pulpwood does it take to make one ton of finished paper products, including the product of the Panama City mill which you say is predominantly container pulpboard?

A. Approximately 2 cords.

Q. How many tons of pulpwood does it take to make one ton of paper products including container pulpboard made at your Panama City Mill?

A. Approximately 5 tons. As already stated, the weight per cord is approximately 5,000 pounds, and it takes 2 cords of pulpwood to make one ton of paper products. In other words, it takes approximately 5 tons of pulpwood to make one ton of paper products, including container pulpboard.

Q. Since you make only one ton of paper products from 5 tons of pulpwood, what becomes of the other 4 tons of pulpwood?

A. Five thousand pounds, or 2½ tons, represents water which, of course, is lost in the process of converting the pulpwood into paper products. Six hundred pounds represents bark which is wasted. The remaining 2400 pounds of the lost 4 tons represents wood substances dissolved in the process of digesting the wood for the making of paper.

Q. May it be understood that when you refer to paper you are referring to the products of the Panama City mill, predominantly container pulpboard?

A. Yes, the reference includes those paper commodities and is directed chiefly to them.

Q. In other words, Mr. Hearn, if I correctly understand the detail, you must transport 5 tons of pulpwood inbound to the mill in order to produce one ton of paper, in this case chiefly container pulpboard, outbound from the mill?

[fol. 1133] A. That is correct.

Q. What is the annual volume of pulpwood consumption at the Panama City mill of International Paper Company?

A. Approximately 600,000 cords.

Q. What was your average freight rate per cord of pulpwood on the tonnage of that commodity moving to the Panama City mill during the year 1948?

A. $5.62 per cord, or approximately 50 percent of the value of the pulpwood f.o.b. cars at point of origin.

Q. Has pulpwood's contribution to the revenue of the carriers during the past several years substantially increased, and if so, why and how?

A. In 1939 our average freight rate to Panama City was $2.37.

1940	$2.34
1941	2.45
1942	2.87
1943	3.22
1944	3.62
1945	3.69
1946	3.76
1947	4.46
1948	5.62

In other words, we have come from an average freight rate of $2.37 per cord in 1939 to an average freight rate of $5.62 per cord in 1948, which is an increase of 137.13 percent. During this same period freight rates on pulpwood interstate within the South have been increased 50 percent, that is, 20 percent under Ex Parte 162 and 25 percent under Ex Parte 166. On Florida intrastate traffic freight rates have been increased 30.8 percent under the two proceedings mentioned. The most important contributing factor to this substantial increase in the trans-

portation charges on pulpwood to Panama City, Fla., was the adoption in 1941 of sound replanting practices by the paper industry throughout the South. The paper plants in the South and Southwest have generally been located where there was a supply of pine pulpwood, but after several years of operation it was found desirable and necessary for the paper industry in the South and Southwest to permanently discontinue the practice of intensely cutting trees in the local areas surrounding these plants. Therefore, in 1941 the Southern Pulpwood Conservation Association was organized and worked out with the paper industry in the South and Southwest certain minimum cutting rules to be observed by the paper industry in procuring its pulpwood. This program also had and still has the energetic support and advocacy of the United States Forestry Service and the various state forestry departments of the Southern states. My first exhibit #99 is a copy of those rules, which are presently observed by the paper industry in the South in the procurement of pulpwood. We reiterate that these are minimum cutting rules, and, generally speaking, the paper industry observes more rigid conservation cutting practices. The paper industry for the past several years has found it necessary to go out long distances and cover vast areas in the procurement of pulpwood. This practice is in the interest of sound conserva-
[fol. 1134] tion and reforestation, but being required to go out longer distances for the wood has resulted in substantially increasing the transportation charges paid to the rail carriers.

Q. In the Ex Parte 162 and 166 proceedings before the Interstate Commerce Commission did the paper industry undertake to obtain special consideration of the rates on pulpwood from the standpoint of advocating a lower percentage of increase on pulpwood than on commodities generally?

A. Yes, sir, this was rather fully done in both cases, the principal presentation being through the American Paper and Pulp Association, of which International Paper Company is a member. In Ex Parte 162 the increase on pulpwood was made 20 percent throughout the nation, the same as was done on most other commodities, and in Ex

Parte 166 the increase was made 20 percent in the West, 25 percent in the South, and 25 percent in Official territory. The only special consideration given pulpwood was 25 percent in Official versus 30 percent on commodities generally, but this special treatment was not, in our opinion, an adequate answer to our pleas and needs. In Ex Parte 166 we particularly emphasized the very close parallel as between the iron and steel industry and the pulp and paper industry in their production and distribution operations. The plants and markets of both industries are far flung and the competitive market conditions and relationships are very similar. Pulpwood corresponds to iron ore, while woodpulp is equivalent to pig iron. Paper and paperboard made from woodpulp are comparable to the structural shapes, sheets, rods, bars, etc., produced in a steel mill, and paper containers, bottle caps, cartons, and other finished paper forms have their similarity in fabricated steel products. In both Ex Parte 162 and 166 the railroads proposed and the Commission approved special consideration for iron ore and manufactured iron and steel articles. Statement No. 4832 issued in September, 1948 by the Bureau of Transport Economics and Statistics of the Commission entitled "Estimates of Average Percentage Increases in Freight Rates authorized in Ex Parte 166 by Commodity Classes" shows iron ore was advanced in said proceeding 19.6 percent, whereas pulpwood is shown as having been advanced 23.3 percent. We are still unable to understand why pulpwood was not at least considered as favorably in both of these two proceedings as iron ore. This dissatisfaction goes back to Ex Parte 123 when the Commission prescribed 10 percent on pulpwood, but at the same time prescribed only 5 percent on lumber and articles taking the lumber rates. In other words, the low grade raw material of pulpwood was required to pay more than the finished products of lumber and lumber articles.

Q. How is pulpwood purchased, particularly from the standpoint of f.o.b. or delivered prices?

A. All rail pulpwood is purchased on basis of an f.o.b. shipping point price. The transportation charges are invariably paid and borne by the paper mills. In other words we have a uniform f.o.b. origin price which is paid to all

shippers. The short-haul shipper or seller of the wood receives the same price as the long-haul shipper. Obviously, the seller of the wood is not affected by the level of the freight rate, and he is not affected by the character of the commerce, that is, to say whether it is interstate commerce or intrastate commerce.

Q. Is the movement of pulpwood over the railroads in [fol. 1135] single car or multiple car lots?

A. Pulpwood is volume traffic for the carriers. At our Panama City, Fla. plant the receipts will average approximately 100 cars per day. There are many points in Florida loading pulpwood to Panama City where three or four cars are loaded at one time and the local trains in performing the gathering or pick-up service invariably have several cars in each train even though the loading at some of the points may be a single carload.

Q. Is this pulpwood traffic to which you refer a sporadic or seasonal traffic, or does it move in volume throughout the year?

A. It moves in substantial volume throughout the year. It is neither seasonal nor sporadic. The average paper mill generally operates 24 hours per day, and approximately 360 days per year.

Q. What type of railroad equipment is used in the movement of pulpwood to Panama City, Fla.?

A. What is generally known as wood rack cars and old box cars, generally referred to as "rough loaders". Very seldom is a first-class box car used in the transportation of pulpwood.

Q. Briefly describe these wood rack cars.

A. A preponderance of these wood rack cars are old boxes or flat cars which are no longer suitable for general use and are converted in the shops of the railroads to rack cars. Generally speaking, most all of the rack cars have solid wood or steel ends, with rail or wood risers about 5 inches in height along the edge of the floor so that two rows of pulpwood can be loaded on the cars. The wood slightly slants toward the middle of the car, which holds the load intact in transit.

Q. Now what percentage of your wood to Panama City moves in these so-called wood rack cars?

A. Approximately 50 percent.

Q. Has there been an increase in the trucking of pulpwood to your plant at Panama City, Fla.?

A. Yes, sir. During the year 1947 we received direct at our plant at Panama City 68,906 cords. During the year 1948 we received 83,738 cords. Our truck program for the year 19[redacted] even under the existing rate increases, calls for 120,000 cords by motor truck direct, and pulpwood today is being trucked by the owners, producers, and cutters thereof in their private trucks to Panama City, Fla., for distances of as much as 120 miles.

Q. Please explain the conditions which make pulpwood very susceptible to private motor truck transportation under a high rail rate structure.

A. First, it should be borne in mind that every stick of pulpwood which moves to a paper mill via rail must first be handled by motor truck to a railroad station. I do not know the exact average motor truck haul from the farms or [fol. 1136] woodlands to railroad stations, but I estimate that it is somewhere in the neighborhood of 8 or 10 miles. When pulpwood is to be loaded in railroad cars and shipped via rail, the truck as it comes from the source of production must have two men on it, that is, the driver and a helper. The weight of green pulpwood is such that it cannot be unloaded from trucks into railroad equipment or unloaded from trucks on to wood rack cars without two men. In other words, it takes two men to do the job, and in some instances three are used. It is estimated by our Wood Procurement Division that it costs, leaving out of the picture entirely the cost of operating the truck, $1.00 per cord to load pulpwood into or on railroad cars. When railroad cars are not available the pulpwood is generally banked somewhere near the railroad station, and then when cars are available the wood must be picked up again and transferred a short distance and loaded into railroad cars. The cost of picking up pulpwood which has been banked near a railroad station and subsequently loaded in railroad cars is $1.50 per cord. When pulpwood is trucked directly to the mill only one man is needed on the truck, and that is the driver. At Panama City, Fla., these trucks are unloaded by a large locomotive crane by the placement of

wire loops around the edges of the entire load, and within a couple of minutes the driver is on his way back for another load. This is the picture from the standpoint of the pulpwood producer or seller transporting his own pulpwood. There is another substantial added economy to the paper company in receiving pulpwood by truck versus railroad cars. It is much cheaper to unload pulpwood at the plant arriving by motor truck than it is pulpwood unloaded from wood rack cars, which is also a mechanical process, but the difference in cost is substantial when the pulpwood is received in box cars. As previously stated, approximately 50 percent of our pulpwood at Panama City is received in box cars, and the cost of unloading pulpwood from box cars versus motor truck is close to 50c per cord.

Q. What is the status of the movement of pulpwood by water to Panama City?

A. At the present time we are not receiving any pulpwood by water at Panama City, although we are making a survey with the possible establishment of water service in the transportation of pulpwood from the west coast of Florida as far down as Tampa. This involves the expenditure of approximately $1,000,000 for tugs and equipment. The operation, if established, will be somewhat similar to our Georgetown, S. C. operation where this year we received 123,960 cords of pulpwood by water and where arrangements are being made to increase this water tonnage an additional 100,000 cords per year. Our barge transportation to Panama City, Fla. was discontinued several years ago, but the transportation charge on pulpwood is such an important item to a paper mill as to merit and require the recourse to any operation which will hold this pulpwood transportation burden within reasonable bounds, because pulpwood and the transportation charges paid thereon is the bloodstream of a paper mill.

Q. Do you have another exhibit?

A. Yes, I present Exhibit No. 100, which is an excerpt from Statement No. 4823 of the Bureau of Transport Economics and Statistics of the Interstate Commerce Commission, issued in July, 1948, entitled: "Freight Revenue and Wholesale Value at Destination of Commodities Transported on Class I Steam Railroads in the United States".

In considering this exhibit it should be borne in mind that [fol. 1137] the f. o. b. origin price of pulpwood shipped by rail is $11.25 per cord, and the average freight rate to Panama City, Fla. for the year 1948 was $5.62 per cord, or an exact ratio of freight to value of 49.96 percent. In these general increase cases there is dire need for more consideration to be given this low grade important raw material, such as the railroads and the Commission have given to iron ore and such as we requested on pulpwood.

Q. To what section of the country does Panama City, Fla. ship its pulpboard?

A. For the first five months of 1947, and this period can certainly be considered representative, we shipped 621 tons to the Southwest, 5,561 tons to the South, 84,636 tons to Official territory, and 9,200 tons to WTL Zones C and 1. From this distribution it will be observed that virtually all of our tonnage goes to the North and Mid-West where the hauls involved are for long distances and where the freight rates are high. On this outbound tonnage we are paying an increase of 22½ percent under Ex Parte 162 and 25 percent under Ex Parte 166, and in neither of these proceedings did we request any special treatment for any of the products which we ship or receive, other than pulpwood.

Q. Mr. Hearn, introduce and explain your next exhibit.

A. My next Exhibit No. 101 is a statement showing the percentage increases which have been made in the interstate Southern and Southwestern pulpwood rates in the last three general increase cases, viz.: Ex Parte 123, 162 and 166. On this same statement we have also shown the percentage of increases allowed on intrastate traffic by the various state commissions in the South and Southwest.

Q. What is the position of your company in connection with the petition of the carriers seeking an additional increase on pulpwood in Florida of 11 percent under Ex Parte 162 and 5 percent under Ex Parte 166.

A. It is our position that the petition of the carriers should be denied. Florida pulpwood is certainly bearing its full share of the transportation burden. By reference to Exhibit No. 101, the last one introduced, it will be observed that in other southern states in which the petition-

ing carriers here are also the important carriers, the increases on pulpwood are generally less than those proposed by them in this proceeding. Measured in terms of percentage increase, Florida pulpwood is now contributing to the revenues of these petitioners as much as is the Georgia pulpwood and in much greater measure that are the increases in Alabama, North Carolina, South Carolina, and Virginia. International Paper Company takes the definite position in this proceeding that there is no justification for further increase of the Florida pulpwood rates and it asserts further that establishment of any such further increase will substantially reduce rather than increase railroad revenues.

[fol. 1138] PROTESTANT'S EXHIBIT 103

I. C. C. Docket 30140

Outline of Proposed Testimony of Mr. Carl Dodson, Traffic Manager, Newport Industries, Inc., to Be Presented in Connection With the Movement of Wastewood from Florida Origins to Pensacola, Florida

Q. Please state your name and address.

A. Carl Dodson, Pensacola, Fla.

Q. What position do you hold?

A. I am Traffic Manager for Newport Industries, Inc., with its general offices at Pensacola, Fla.

Q. How long have you held that position?

A. A little over 7 years.

Q. Won't you please outline briefly your duties?

A.

Q. Thus, you are in direct charge of rates and routes in connection with all of the company's in and outbound shipments?

A. Yes.

Q. Won't you please describe briefly the business which Newport Industries is engaged in?

A. We are engaged in the manufacture of naval stores consisting of rosin, pine oil, turpentine, etc., extracted from resinous wastewood by what is known as the steam distillation process. This process consists of first stripping

the wood; shredding it into fine splinters; placing the splinters in large retorts where they are covered with petroleum solvents and subjected to high temperatures under pressure, which extracts the naval stores and chemicals from [fol. 1139] the wood. The products thus obtained are drawn off and separated by refractionation and other processes.

Q. What other methods of making naval stores are there?

A. There are three methods of making naval stores. One is the old tree bleeding method with which I am sure everyone is familiar. There are two modern methods (1) the steam distillation process which I stated we use and (2) the destructive wood distillation process which some other plants use. The two modern processes are similar to the extent that both of them use resinous wastewood as a raw material.

Q. Just what do you mean by "resinous wastewood?"

A. Resinous wastewood sometimes known as "stump" or "tarwood," consists of old pine stumps, knots, butts, limbs, and boughs. Instead of bleeding the trees in the woods, gathering the sap and taking it to the manufacturing point for refining, we purchase resinous wastewood. The material is largely gathered from wastelands, i.e., where lumber operations have previously taken place. The stumps are either blasted from the ground by explosive charge or uprooted by bulldozers. This material is just what the name implies, i.e., wastewood. If you were to see a car of it in transit, you would think it was trash going out to be thrown away or burned.

Q. What kind of equipment does it move in?

A. Our movement to Pensacola is in box cars because those are the cars that are most readily available to us here in Florida. However, it can move in any type of car that has wheels and a bottom. In the movement to Pensacola, we utilize any type of box cars that will hold together. [fol. 1140] The commodity simply isn't susceptible to damage. It can stand all the rain or trash or rough handling that comes its way, and setting fire to it is the only way I know it can be damaged. Prior to the development of the steam distillation and destructive wood processes,

some thirty-five years ago, all of this material was simply completely wasted. It is a movement which the railroads did not enjoy prior to that time. This movement has been brought about by the research of the naval stores industry to utilize waste material in the production of high grade manufactured products. At Pensacola, Fla., from these old tree stumps and tree boughs, which used to be waste material, we have developed 150 useful chemicals. These commodities move out on rates ranging from 19 per cent of first class in the case of rosin to 70 per cent in the case of terpineol.

Q. To what weight does it generally load per car?

A. The weight per car varies rather widely, running from as low as 35,000 lbs. to as high as 100,000 lbs.

Q. What accounts for this widely varying weight per car?

A. There are two factors. First, the material itself comes in all sorts of odd sizes and shapes so that when it is loaded in the car it cannot be stacked in any orderly way, but simply is more or less dumped in, and therefore, the weight per cubic foot or yard, as loaded, varies greatly. Generally speaking, the stumps and butts will load heavier than the boughs, limbs, and knots. The second factor which accounts for the widely varying average loading, is the different sizes of box cars that are placed. The L&N still owns a large number of old 36 foot box cars with [fol. 1141] 7½ foot proofs and which are very narrow. As previously stated, we utilize any equipment they have. Where we have the extremely light loads of 35,000 and 40,000 lbs., they are generally brought about by utilization of this equipment.

Q. Do you have any actual figures as to the loading of this material over a period of time?

A. Yes. In the fall of 1945 immediately before we took this situation up with the railroads in an effort to get a voluntary adjustment to Pensacola, we made a test of 412 cars. On those 412 cars, the lightest load was 40,000 lbs., and the maximum 74,000 lbs., with an over-all average of 52,164 lbs. In order to bring our figures up to date, I have just made a survey of our Fla. shipments intrastate for the first three months of 1949. That survey covers the move-

ment of 569 cars. The lightest loaded car during that time was 37,500 lbs., and the heaviest loaded was 103,500 lbs., with an over-all average of 58,440 lbs.

Q. In general, where does the production of naval stores in the United States take place?

A. The producers are all located in a belt along the Atlantic and Gulf Coast of the United States. It starts just south of Norfolk, Va., and runs around the Atlantic Coast to the Gulf Coast as far as East Texas, but the center of production is in southeast Georgia close to the Atlantic Ocean.

Q. What are the principal consuming areas in the United States for naval stores.

A. By far the largest consuming area is that portion of the United States located north of Washington, D. C., and east of a line drawn from Buffalo, New York to Pitts- [fol. 1142] burgh, Pennsylvania. I would say that the next largest consumption is in the central West centering around Chicago and Detroit. The balance of the consumption is scattered in various places over the United States.

Q. At what points in the Southeastern States are plants located for the manufacture of naval stores by the two modern methods?

A. In North Carolina there is a plant at Fayetteville. In Georgia there is a plant at Brunswick. In Florida there are plants at Jacksonville, Gainesville and Pensacola, the last named plant being our own. In Alabama there is a plant at Mobile and one at Bay Minette, the one at Bay Minette being our own plant. In Mississippi there are plants at Columbia, Gulfport, Hattiesburg, two at Laurel, and one at Goodyear. In Eastern Louisiana there are plants at Covington and New Orleans. The plants at Brunswick, Ga., and Hattiesburg, Miss., belong to our largest competitor.

Q. Are you at a competitive disadvantage as compared with the plant at Brunswick to the largest consuming area in the United States?

A. Yes. In order to do business in Trunk Line Territory, it is necessary for us to meet the delivered prices of our competitor at Brunswick. I have prepared an exhibit to illustrate this. On my Exhibit No. 104 I have compared

the rates on rosin and turpentine from Brunswick, Ga., and Pensacola, Fla., to representative points in Trunk Line Territory which as I previously testified is the largest single consuming area in the United States. Taking New York, N. Y., as an example, prior to July 1, 1946, the rate from Brunswick on rosin was 41 cents and our rate from [fol. 1143] Pensacola 48 cents, or a differential of 7 cents against us. On Turpentine, the Brunswick rate was 63 cents, and our rate 74 cents, or a differential of 11 cents against us.

Q. What has been the effect of the general increases under Ex Parte 162 and 166 on these differentials?

A. The 7 cent differential on rosin, which existed prior to July 1, 1946, has now been increased to 11 cents, without taking into account the Ex Parte 168 surcharge. While the 11 cent differential on turpentine has now been increased to 18 cents, again without considering the Ex Parte 168 surcharge.

Q. Now when you go the other direction or to the next largest consuming area at Chicago, do you have to meet the delivered prices from the Hattiesburg, Mississippi plant?

A. Yes.

Q. Just what does that mean?

A. On my Exhibit No. 105 I have compared the rates from Hattiesburg and Pensacola to representative destinations in C. F. A. and I. F. A. territories. Taking Chicago, Illinois as an example, prior to July 1, 1946, the rate from Hattiesburg on rosin was 41 cents and from Pensacola 43 cents, or a differential of 2 cents against us. On turpentine, the Hattiesburg rate was 63 cents and the Pensacola rate 69 cents or a differential of 6 cents against us.

Q. What has been the effect of the Ex Parte 162 and 166 general increases on these differentials against you?

A. The 2 cent differential on rosin has remained the same. The same. The 6 cent differential on turpentine [fol. 1144] has been increased to 10 cents. The 2 cent differential on rosin to Chicago which has remained the same during these Ex Parte increases is not typical of the general situation in the Midwest. Generally, the spreads there in favor of Hattiesburg have been widened.

The reason for the 2 cent differential at Chicago remaining constant is because the Hattiesburg to Chicago rate is a Class rate and was subject to increases of 22½ per cent and 25 per *per* cent, whereas, our rate to Chicago is a Commodity rate and was increased 20 per cent and 25 per cent. Detroit is a better example where our 2 cent disadvantage prior to July 1, 1946 has been widened to 4 cents by the addition of the Ex Parte 162 and 166 increases. Again, in all of these illustrations I have not taken into account the Ex Parte 168 surcharge.

Q. Just what significance do your Exhibit Nos. 104 and 105 have so far as this proceeding is concerned?

A. It shows that we are laboring at a great disadvantage because our largest competitor has plants located closer to each of the two largest consuming areas in the United States. With this natural disadvantage due to our greater distance from the consuming markets, we simply are not in a position to stand a higher level of freight rates—mile for mile—on our principal inbound commodity—wastewood—than is available to our competitors.

Q. Then what is your primary purpose of appearing in this proceeding?

A. It is to prevent increases being made in the level of the intrastate rates on wastewood from Florida origins to our plant at Pensacola which would result in those rates [fol. 1145] again becoming unconscionably higher than both the level of intrastate and interstate rates now existing to the plants of our principal competitors.

Q. How many tons of this wastewood do you bring in for each ton of outbound products you ship out?

A. Approximately five.

Q. If you suffer from a disability of 1 cent per 100 lbs. on your wastewood inbound as compared with your competitors, just what does that mean to you?

A. It means a disability of 5 cents per 100 lbs. on our outbound products.

Q. You refer to both the level of inter and intrastate rates on wastewood: Is the movement of wastewood generally interstate or intrastate?

A. I would say that relatively the interstate movement of wastewood is very small. Generally speaking, based on

my experience, I think the great majority of the movement is intrastate. The largest single interstate movement I know anything about would be that from Northeastern and North Central Florida to Brunswick, Georgia. Other than that, most interstate movements are limited to situations where a plant is located near a State line and traffic moves from just over the state line to it. At Pensacola we do get some wood from points in Alabama just north of the Alabama-Florida State Line. Judging by the rates which have been negotiated and published, I would say that the plant at Hattiesburg gets some wood from points just across the Mississippi-Alabama line.

[fol. 1146] Q. From what part of Florida do you draw your wastewood?

A. We are limited to that portion of Florida west of Tallahassee.

Q. Have you ever purchased any wood from points in Florida east of Tallahassee?

A. Yes. We have purchased some, but generally speaking, the rate situation is so much more favorable to the plant at Brunswick, Ga., that we simply cannot compete with them in the purchase of this wood.

Q. Have you in the past been forced to pay relatively higher transportation charges even on the wood which you purchase from points in Florida west of Chattahoochee than those your competitor at Brunswick pays when purchasing wood at points in southeastern and central Georgia and from points in northeastern and north central Florida?

A. We certainly have, as will be shown in more detail by another witness.

Q. Are you still laboring under the disadvantage of relatively higher rates from points in Florida west of Chattahoochee.

A. For the first time, since the addition of the Ex Parte 162 and 166 increases to the rates from points in Georgia and northern Florida to Brunswick and the denial of those increases to Pensacola, we have a level of rates approximating that available to our competitor. I say "approximating." I believe on the average it is about equal. As

will be shown later, there are some instances today where our rates are still relatively on a higher basis even after Ex Parte 162 and 166 increases have been added to the rates to Brunswick.

[fol. 1147] Q. Has this inequity in your inbound raw material rates been the subject of prior handling with the Florida railroads?

A. Yes. Back as early as December 1945, we brought this situation to the attention of the Florida railroads and asked for relief.

Q. What sort of a responde did you get to your handling with the Florida railroads?

A. They refused to take any steps whatever to ameliorate the great disadvantage we were laboring under with respect to our raw material rates.

Q. What step did you take next?

A. On August 24, 1946, we filed a complaint with the Florida Railroad Commission against the rates on wastewoods from origins in Florida to Pensacola, Fla.

Q. Has that complaint ever been brought to trial?

A. No.

Q. Can you tell us why the complaint has never been tried?

A. After several delays brought about by various causes the complaint was finally set down for hearing by the Florida Commission on January 22, 1947. In the meantime, the Florida railroads had filed their petition with the Florida Commission seeking general increases in Ex Parte 162 and they asked us to consent to a postponement of the trial of this complaint until the general Ex Parte increase case was out of the way. At that time we anticipated that this would result in a delay of only a few months. However, since that time, Ex Parte 166 and 168 have come along and the delay has now run to 2½ years.

Q. Do you have anything else to add?

A.

(A-57).

[fol. 1148] PROTESTANT'S EXHIBIT 106

I. C. C. Docket 30140

Outline of Proposed Testimony of Mr. A. M. Ribe, Consulting Traffic Manager, Newport Industries, Incorporated, to Be Presented in Connection With the Movement of Wastewood from Florida Origins to Pensacola, Florida

My name is A. M. Ribe. My address is 912 South 21st Street, Birmingham, Alabama. I am Consulting Traffic Manager for Newport Industries, Inc., with their main offices at Pensacola, Florida.

The preceeding witness, Mr. Dodson, has outlined the operation of our company and the purpose of our appearing in this proceeding.

I have made a survey of the rates applicable generally throughout Southern Territory on resinous wastewood and that survey is incorporated in my Exhibit No. 107 consisting of 20 pages.

I believe the various portions of this Exhibit are largely self-explanatory, but to be sure they are clearly understood I will briefly run over them now.

The survey of rates contained in my Exhibit No. 107 begins with the base rates, i.e., those in effect on June 30, 1946 and traces all of the various interstate and intrastate adjustments up through whatever increase is applicable up through Ex Parte 166 today. I have not taken Ex Parte 168 into account at all as those increases are not involved in this proceeding. I have shown the rates including Ex Parte 162 increases and Ex Parte 166 increases separately in my exhibits for the reason that this proceeding comprehends both of those increases at least insofar as resinous wastewood is concerned.

[fol. 1149] On page 1, I have shown the scales of rates applicable on resinous wastewood moving in intrastate traffic within the State of Florida, for *single* line hauls. This is a maximum scale and applies to all movements in the State of Florida except where specific point to point commodity rates are published for the same distances on a lower basis or wherever commodity rates may be pub-

lished for distances in excess of 300 miles. The scale is subject to a weight of 40,000 lbs. You will note particularly that there is no basis for making joint line rates except the often condemned old and out moded method of combinations of the single line factors less 20 per cent over three or more carriers. To Pensacola, the scale shown on page 1 of my Exhibit No. 107 is the *only* basis of rates available. On Sheet 2 I show a scale of rates published per car of 60,000 lbs. and applicable from ACL and SAL stations in Florida to Gainesville, Fla., which rates are considerably lower than those shown on page 1 and in the case of Gainesville, alternate with the rates shown on page 1. There are some specific rates for distances over 300 miles published to Jacksonville, but I have not incorporated them in my exhibit. That about summerizes all the rates there are on resinous wastewood in the State of Florida.

On page 3, I show the scale of rates which is applicable as a maximum basis between points in the State of Alabama. Comparing the base single line scale within Alabama with the base single line scale in Florida you will see that they are the same except that the Alabama scale terminates at 260 miles. The important difference between [fol. 1150] the Alabama scale and the Florida scale is that in the Alabama base scale provision is made for joint line hauls at through rates and shippers and receivers of this commodity in Alabama are not forced to pay combination rates for two and three line hauls.

On page 4, I have shown the maximum scale having application within the State of Georgia for both single and joint line hauls subject to a minimum weight of 40,000 lbs. By comparing the Georgia base single line scale with the Florida base single line scale, you will see that the Georgia scale is the same as the Florida scale, except at the 100 and 160 mile blocks, the Georgia scale is ¼ cent lower.

Again, in Georgia, shippers and receivers in the State are not forced to pay high combination rates for joint line hauls, but have a scale of through rates available for such movements.

In addition to the scale of maximum rates subject to a

minimum of 40,000 lbs. shown on page 4, there is another and lower basis of rates generally available to the plant at Brunswick, Ga. This alternate basis of rates is similar to the basis published from ACL and SAL stations in Florida to Gainesville, Fla., in that it is published in cents per car of 60,000 lbs. In some instances, these 60,000 lb. rates to Brunswick are published as specific point to point rates and in other instances, they are published as mileage scales. On page 5, we have shown both the 40,000 lb. and 60,000 lb. minimum rates available to Brunswick, Ga., from stations on the ACL RR Western Division in Georgia. For comparative purposes, on this and other parts of this ex- [fol. 1151] hibit, we have converted all of the rates to equivalents per net ton. You will see that in the base rates, for instance, from Browntown a distance of only 27 miles, the lower 60,000 lb. rates result in a saving of 7 cents per ton to the receiver at Brunswick.

On pages 7 thru 11, I show in detail the dual basis of rates available for both single and joint line hauls to our largest competitor at Brunswick. I call your attention to the fact that the lower 60,000 lb. rates which alternate with the 40,000 lb. rates are published not only for single line application, but in many instances, for joint line application.

So far, I have dealt with the intrastate rates in the three states of Florida, Alabama and Georgia. To get a picture of the rate level applying to this commodity within the South, it is necessary to deal with the intrastate rates since as Witness Dodson pointed out, the interstate movement is negligible.

However, there are a large number of interstate rates published from origins in Florida to Brunswick, Ga., which generally are published in cents per car of 60,000 lbs. From ACL System Line stations in Florida to Brunswick, Ga., over the ACL System direct, these interstate 60,000 lb. rates seem to be uniformly 5 per cent higher than similar rates within Georgia, but are still considerably lower than the 40,000 lb. rates available to Pensacola from the same origin territory. These rates are set out on pages 12 and 13. On pages 14 and 15, I show the 60,000 lb. per car rates available from FEC and GS&F stations in Florida

[fol. 1152] to Brunswick for joint line hauls. These rates do not seem to vary consistently with distance, but as will be shown later are still on a considerably lower basis than the 40,000 lb. rates available to Pensacola.

On pages 16 and 17, I show rates for single and joint line hauls within the State of Mississippi also subject to a minimum weight of 60,000 lbs. On pages 19 and 20, I show rates in cents per net ton, minimum weight 40,000 lbs., available from Frisco stations in Florida and Alabama to Pensacola, Fla.

To thoroughly understand the situation, it is first necessary to grasp the differences in the base or June 30, 1946 rates to Pensacola and the same rates available to other similar plants in Southern territory. On June 30, 1946 there were three principal differences in the basis of rates available from Florida origins to Pensacola from those available between other points, all three of which differences operated to severely penalize us at Pensacola in drawing in our principal raw material. The first of these differences was that in certain instances our single line rates even subject to a minimum of 40,000 lbs. were somewhat higher than the single line rates subject to the same minimum available within Georgia: *Incidentally, while I have not shown it on my exhibit, the Georgia single line scale for a minimum of 40,000 lbs. is also published on interstate traffic from points in Southern Georgia to Jacksonville, Fla.* The second and one of the very important handicaps from which we were suffering was the lack of a lower basis of rates on the 60,000 lb. minimum which was available to our competitors on both intra and interstate traffic. This dual scale of rates constituted a real advantage to them and a real disadvantage to us when you con- [fol. 1153] sider the wide variations in the loading of this material as testified to by Witness Dodson. The third and perhaps greatest advantage to our competitors and disadvantage to us, was the availability of through joint line scales on both the 40,000 and 60,000 lb. minimum rates, whereas, there were no joint line rates whatever available to us at Pensacola.

Those are the competitive disadvantages we were laboring under in December 1945 when we brought this matter

to the attention of the Florida railroads and asked them to voluntarily correct it. It is also the same inequity against which we filed our complaint with the Florida Railroad Commission on August 24, 1946, and is the situation which led the Florida Commission to deny the carriers any increases on wastewood in Florida in Ex Parte 162 and to deny them the Ex Parte 166 increases on wastewood from points in Florida to Pensacola.

On my Exhibit No. 108 consisting of 21 pages, I have made various comparisons between the rates actually available to us from Florida origins to Pensacola and what those rates would be if made on the basis of the scales available to our competitors on both joint and single line movements, and on interstate and intrastate traffic.

On pages 1, 2 and 3, of my Exhibit No. 108, I have dealt with the comparative situation insofar as the base rates single line hauls are concerned. I have shown the base or June 30, 1946 rates from all stations on the L&N Pensacola-Chattahoochee Line and branches to Pensacola in comparison with what these rates would be if made on several [fol. 1154] of the bases outlined in my Exhibit No. 107 for interstate and intrastate application to Brunswick, Ga. You will note that in many instances, the Georgia scale subject to a minimum of 40,000 lbs., was 5 and 10 cents per ton lower than the rates to Pensacola and that the rates to Brunswick, Ga., on the 60,000 lb. minimum were way below the single line rates available to Pensacola.

On pages 4, 5 and 6, of my Exhibit No. 108, I deal with a comparison of the single line rates to Pensacola with the single line rates available on both inter and intrastate traffic to Brunswick, Ga., but here taking into consideration the effects of both Ex Parte 162 and 166 increases. I call your particular attention to a comparison of column 7 with column 11 on pages 4, 5, and 6. By comparing these columns you can see how the charges we would have to pay to Pensacola on a car of 60,000 lbs., would compare with the charges from Georgia stations to Brunswick, Ga. if the Ex Parte 162 increases should be added to our rates. Please understand this is a comparison between what the charges under our rates would be including Ex Parte 162 with what the Georgia rates are including both Ex Parte

162 and 166. Beginning with Milligan near the bottom of page 4, the charges we would pay on a 60,000 lb. car, if this Commission should require the addition of the Ex Parte 162 increases on the rates on wastewood to Pensacola would become $27.00 per car as compared with $27.16 for a similar haul within Georgia including both Ex Parte 162 and 166 increases. Incidentally, Milligan you will note is 46 miles from Pensacola and we have no, or practically [fol. 1155] no movement from stations under 50 miles. By the time we get 66 miles away from Pensacola at Mossy Head, the first station on page 5, if this Commission requires the addition of the Ex Parte 162 increases to the rates on wastewood to Pensacola, we will be required to pay $33.00 for a car weighing 60,000 lbs. as against a charge of $30.73 from Georgia stations to Brunswick, Ga., including *both* Ex Parte 162 and 166 increases and as compared with a charge of $32.18 on *interstate* traffic from Florida stations to Brunswick, Ga., again both after the Ex Parte 162 and 166 increases have been added.

Page 1 through 6 only contain the story as to single line traffic. *The balance of this Exhibit deals with joint line traffic and as you will see, the disadvantage against Pensacola is even greater in connection with joint line traffic and by far the greatest proportion of our traffic is joint.* On pages 7 through 11, we compare the base rates for joint line hauls to Pensacola with what those rates would be if made on the level of the intrastate and interstate rates to Brunswick, Ga. I call your particular attention to the Apalachicola Northern stations listed at the bottom of page 8 where our rate to Pensacola per net ton of $1.70 compared with rate of $1.40 on basis of the Georgia joint line scale for a 40,000 lb. minimum and with rate of $1.20 from GS&F Georgia stations to Brunswick and from GS&F Florida stations to Brunswick on a minimum of 60,000 lbs.

On pages 12 through 16 I have shown the present rates for joint line hauls from the L&N connecting lines to [fol. 1156] Pensacola, Fla., both as base rates and what those rates will become if this Commission authorizes the addition of Ex Parte 162 or 166 increases to them in comparison with the Georgia joint line maximum scale for the same distances. In considering this showing, please re-

member that this Georgia maximum joint line scale also has application on *interstate* traffic from certain points in Georgia to Jacksonville, Fla. Your particular attention is called to the rates shown opposite the Apalachicola Northern Stations beginning with Fort Gadsden on page 13. You will note that if the Ex Parte 162 increases are added to the present rates to Pensacola, they will become ½ cent higher than the Georgia scale for the same distances even after *both* Ex Parte 162 and 166 increases have been added to it. This is true in a number of instances shown on pages 13 and 14.

Now beginning with page 17, I have shown the charges we are presently required to pay to Pensacola for joint line hauls on cars containing 60,000 lbs., of material as compared with the charges paid by our competitors on both intrastate and interstate traffic. This comparison is made not only for the base rates, but includes comparisons after Ex Parte 162 and 166 have both been added. On page 17 from Bear Creek on the A&StAB you will note our present rate even without the addition of either Ex Parte 162 and 166 increases, results in a charge for a car of 60,000 lbs. of $45.00 as compared with a charge of $43.71 from G&F Georgia stations to Brunswick even after both Ex Parte [fol. 1157] 162 and 166 increases have been added to the latter rates. There are several other instances shown on pages 17 through 21 where the charge we have to pay today on a car of 60,000 lbs. is already higher than the charges available to our competitors for a similar movement even after Ex Parte 162 and 166 *both* have been added to their rates.

Now, I ask that you compare what would happen to our rates if this Commission requires the addition of the Ex Parte 162 increases as compared with both the intra and interstate rates to Brunswick even after both Ex Parte 162 and 166 increases have been added. Your particular attention is called to the Apalachicola Northern stations beginning with Hardaway on page 18 where the addition of the Ex Parte 162 charges to our rates to Pensacola would result in freight charges of $61.50 per car as against $54.00 per car from GS&F Florida stations on interstate traffic to Brunswick, Ga., even after both Ex Parte 162 and

166 increases have been added thereto. I cite this instance only as typical. There are many, many such instances shown on pages 17 through 21.

In my last Exhibit No. 109, which is a one page exhibit, I show just how important the dual basis of rates subject to alternating minimums of 40,000 and 60,000 lbs., is to our competitors. I have simply picked some Georgia stations at random and shown the 40,000 lb. rates in cents per 100 lbs. and the rates per car of 60,000 lbs. together with the charges per car on minimum of 40,000 lbs., and then I have shown the weight break point at which it be-
[fol. 1158] comes cheaper to use the 60,000 lb. rates. You will note that in some instances, it is cheaper to use the 60,000 lb. rates on weight as low as 43,710 lbs., and that the highest weight on which it becomes cheaper to use the 60,000 lb. rates is 54,000 lbs.

(A-58) 6-27-49.

[fols. 1159-1185] PROTESTANT'S EXHIBIT No. 124

Witness: B. H. Overton

Docket No. 30140—Increases in Florida Intrastate Rates
Testimony of B. H. Overton

My testimony will deal primarily with the class rate structure in Florida to a limited extent with the class rates applicable to and from Florida, commodity rates related to class rates within Florida and certain specified commodities.

The class rate structure in Florida is primarily based on the scales prescribed by the Commission in Southern Class Rate Investigation, 100 ICC 513, and supplemental reports thereto. The rate structure similar to the Docket 13494 basis was authorized by the Florida Commission by Order No. 977 in its Docket No. 1000. This rate structure originally provided, for class rates constructed by the addition of arbitraries to the basic scale for the haul south of the line of the Seaboard Air Line Railroad, Jacksonville to River Junction, Florida. The name of the station, River

Junction, Florida, has since been changed to Chattahoochee, Florida. In my further testimony with reference to the arbitraries included in the class rates or where applicable on commodity rates, I will refer to such arbitraries as the "Florida arbitraries" or as "L-2 arbitraries". I will likewise refer to the territory in which the arbitraries apply as "Florida Arbitrary Territory".

The class rates and rates related thereto, generally, contained the full Florida arbitrary until October, 1935 when the carriers voluntarily removed the arbitraries on classes 1 to 7 inclusive, and on column ratings, column 35 and higher. As a result of terms of the increased rate cases, [fol. 1136] the elimination of the arbitraries as to column rates is now effective on column 35R or V, or higher. The Florida arbitraries included in the class rates applicable within and from and to Florida arbitrary territory, when subjected to the various percentage increases, namely, Ex Parte 123, Ex Parte 162 and Ex Parte 166 with their comparable increased cases within Florida, increased the differential or penalty paid by the Florida Peninsula shipper and increased the spread in the level of rates, Florida as compared to the Southeast generally.

Exhibit No. 125 illustrates the relationship of these rates using the eighth class rates for illustrative purposes. The eighth class rate is used because it is the first of the numbered classes, which still contain the Florida arbitrary. Exhibit No. 125 is a statement of eighth class rates in Peninsular Florida and in Southeastern Territory, showing inflation in L-2 arbitrary since June 30, 1946. The increases in Ex Parte 123 likewise affected the Florida arbitrary but as this case involves the changes since June 30, 1946, that date has been used as the basic comparative date. The exhibit shows the rates for various distances applicable on June 30, 1946, the present rates and the rates as proposed by the carriers. Columns 3, 6 and 9, shown as the base rate column, actually is the scale applicable within Southeastern Territory. Columns 11 and 12 of the exhibit, show the amount of increase in the L-2 arbitrary under the present rates and under the rates as proposed by the carriers, showing that the differential paid by the Florida shipper has been increased since June 30, 1946

under the present rates and that the carriers' proposal will generally further increase that differential. For example: for a haul of 100 miles, the differential has been increased 2 cents as shown in column 11 and the carriers' proposal [fol. 1187] will result in an arbitrary 3 cents higher than originally prescribed.

The application of the Florida arbitraries results in substantially greater ton mile earnings to the carriers in Florida than the same carriers earn generally in Southeastern Territory. Exhibit No. 126 is a statement comparing present and proposed ton mile earnings in Peninsular Florida and present ton mile earnings in Southeastern Territory, showing amount earnings in Florida present and proposed, exceed earnings in Southeastern Territory. The ton mile earnings shown are based on the eighth class rates governed by exceptions ratings. Column 8 shows the amount the ton mile earnings from the rates applicable in Peninsular Florida at present exceed the ton mile earnings based on the rates applicable in Southeastern Territory. The earnings in Florida exceed the earnings in Southeastern Territory under the present adjustment by amounts ranging from 3.2 mills at 500 miles to 16 mills at 25 miles. The carriers, in this proceeding, propose to increase the rates so that the earnings in Florida would exceed the earnings in Southeastern Territory by amounts ranging from 4.8 mills at 500 miles to 24 mills at 25 miles.

In this proceeding the carriers have requested the Commission to override the Florida Commission and further increase rates within Florida. The rates within Florida have already been increased sufficiently so that the increase in ton mile earnings in Florida, with rare exceptions, is the same as or greater than the increase in ton mile earnings in Southeastern Territory. Exhibit No. 127 is a comparison of ton mile earnings under rates effective June 30, 1946 with present ton mile earnings, showing increase in Peninsular Florida is greater than between points in Southeastern Territory, except Florida. The ton mile [fol. 1188] earnings are shown for various distances as set out in column 1, from 25 to 500 miles. These distances were not picked but were chosen at random to illustrate

the scales applicable and the same blocks are used in all my exhibits showing scale rates. There are fifteen rate blocks illustrated and as shown by column 10, for only one rate block is the increase in ton mile earnings in Florida under the present adjustment less than the increase in Southeastern Territory, and then only by .1 mill. In nine of the examples, the amount of increase is the same and in five rate blocks, the increase in Florida is greater by amounts ranging from .4 mills to 4 mills.

If the increase in rates requested by the carriers is required by the Commission, the increase in ton mile earnings in Florida since June 30, 1946 will be substantially greater than the increase in ton mile earnings in Southeastern Territory. Exhibit No. 128 is a comparison of ton mile earnings under rates effective June 30, 1946 with proposed ton mile earnings in Peninsular Florida and present ton mile earnings in Southeastern Territory, showing increase in Peninsular Florida should be greater than between points in Southeastern Territory except Florida. The amount of the increase in ton mile earnings in Peninsular Florida, if the carriers' proposed basis became applicable, would exceed the increase in ton mile earnings in Southeastern Territory by amounts ranging from 1.5 mills at 260 miles to 8 mills at 25 and 50 miles, as shown in column 10 of Exhibit No. 126.

The relative level of the rates applicable in Peninsular Florida present and proposed may be illustrated by the miles of transportation purchased for a given rate by the Florida shipper as compared to the shipper in Southeastern Territory. Exhibit No. 129 is a statement of present and proposed eighth class rates governed by exceptions ratings applicable in Peninsular Florida, with miles of [fol. 1189] transportation Florida shipper could purchase under the present scale applicable in Southeastern Territory, showing excess miles of transportation the Florida shipper is and would be required to purchase. Column 6 and 7 of the exhibit show the excess miles of transportation Florida is and would be required to purchase. Column 6 shows that the Florida shipper under the present adjustment is required to pay rates which would purchase from 10 to 120 miles more transportation in Southeastern Terri-

tory. If the carriers' proposal is prescribed, the Florida shipper would be required to pay rates which in Southeastern Territory would purchase from 15 to 160 more miles of transportation.

The relative level of the class rate structure containing the Florida arbitraries, presently applicable in Peninsular Florida, is well illustrated by comparing the rates in Florida and the rates in Southeastern Territory with the Docket 28300 Scale, properly increased. The Docket 28300 Scale is here used only as the fixed factor to compare the level of rates in Florida with the level of rates in Southeastern Territory, so it is not important to consider whether the increases used on this exhibit as applied to the Docket 28300 Scale reflect the future level of that scale or not. The scale is here used as a yard stick and not to show the level of existing rates as compared to the 28300 Scale.

Exhibit No. 130 is a statement of eighth class rates governed by exceptions ratings showing amount Florida spread exceeds Southeastern Territory spread over 30% of the Docket 28300 rate. Columns 5 and 6 of the exhibit show the actual spread in cents per 100 pounds and column 7 shows the amount the spread in Peninsular Florida exceeds the Southeastern Territory spread over the Docket 28300 Scale increased. The present Florida rates as shown by [fol. 1190] column 7 of Exhibit No. 130 are from 2 to 9 cents higher than the difference between the present rates in Southeastern Territory and the Docket 28300 Scale. To more clearly explain the showing of Exhibit No. 130 the actual amounts at 240 miles are as follows: the present rates in Peninsular Florida exceed the Docket 28300 Scale increased by 15 cents as shown in column 5. The present rates in Southeastern Territory exceed the same scale by only 9 cents as shown in column 6, or 6 cents less than the Florida spread over the same scale as shown in column 7.

I have previously explained, very briefly, the general class rate structure within Florida. The removal of the Florida arbitraries on classes 1 to 7 inclusive, resulted in a rather peculiar relationship in the class rates applicable within Florida and in Southeastern Territory. This situation is illustrated by Exhibit No. 131. A number of similar comparisons could have been offered, however, the showing

would only have been cumulative as Exhibit No. 131 illustrates the situation and the differences between other points in Florida are of degree only, depending upon both the total length of haul and the length of haul within Florida arbitrary territory. Exhibit No. 131 shows classes 1 to 12 inclusive, between St. Petersburg, Florida and Jacksonville, Florida compared to rates for similar hauls between points in Southeastern Territory. Rates are shown effective on June 30, 1946, the present rates, and the rates which would result under the carriers' proposal in this proceeding. Exhibit No. 131 shows that on June 30, 1946 classes 1 to 7 on Florida intrastate traffic were on exactly the same level as the rates in Southeastern Territory but that classes 8 to 12 inclusive, between points in Florida, exceeded the rates in Southeastern Territory by amounts ranging from 3 cents on 12th class to 6 cents on 8th class. Under the pres-[fol. 1191]ent adjustment, it is true that on classes 1 to 7 the rates within Florida are less than the rates in Southeastern Territory, however, on classes 8 to 12, the carload classes, the rates in Florida are substantially above the rates in Southeastern Territory. It is my considered opinion that the present adjustment as illustrated by Exhibit No. 131 applicable from, to and within Peninsular Florida, is actually higher and results in greater earnings to the carriers than the rate structure in Southeastern Territory.

The proposed rates require some explanation. The exhibit shows that the proposed basis of rates governed by the classification ratings applicable in Florida, would substantially exceed the rates in Southeastern Territory, whereas, the rates governed by exceptions ratings would be equal to rates in Southeastern Territory on classes 1 to 7 inclusive, and be substantially above Southeastern Territory on classes 8 to 12 inclusive.

On interstate traffic, subsequent to the increases authorized in Ex Parte 162 and prior to the application of the increases authorized in Ex Parte 166, the Supreme Court sustained the Commission's interim order in Class Rate Investigation, 1939, 262 ICC 447. By subsequent orders the interim order in that proceeding was made effective in Southeastern Territory on interstate traffic by reducing the class rates 10% and increasing that basis 22½%. On

Florida intrastate traffic, the cariers declined to treat the class rates, classes 1 to 7 inclusive in Peninsular Florida to reflect the 28300 adjustment but only applied the interstate order in Peninsular Florida on intrastate rates which included the Florida arbitrary. The Florida Commission as to class rates and all rates related to class rates, had al-[fol. 1192] ready granted the full increase requested in the state case comparable to Ex Parte 162. The Florida Commission's order in Docket No. 1574, the companion case to Ex Parte 166, and the order here actually protested, as to class rates and rates related to class rates, corrected that situation by specific prescription of the class rates treated to reflect the Docket 28300 readjustment. If the carriers had received the full amount of the increase requested in Florida Commission Docket No. 1574, or do receive by order of this Commission the rates requested in this proceeding, the result will be rates as shown on Exhibit No. 131, under the heading "Proposed Rates". A comparison of the relative rates effective June 30, 1946 with the proposed rates will show that the carriers are actually proposing on classes 1 to 7 inclusive, governed by classification ratings, to increase the rates in Florida a substantially greater percentage than the rates have been increased in Southeastern Territory. For example: a first class rate of 121 cents would be increased in Florida to 181 cents, whereas, in Southeastern Territory the same rate has been increased only to 168 cents. This matter was presented in considerable detail to the Florida Commission during its hearings on Docket No. 1574 and definitely is the reason for the specific provisions in the Florida Commission's orders relating to class rates governed by classification ratings. As a matter of actual history, the railroads actually did increase rates in Florida governed by classification ratings, a greater amount subsequent to June 30, 1946 than the carriers had increased rates in Southeastern Territory effective on August 22, 1947, until the changes authorized in Florida Commission Docket No. 1574.

The class rate structure in Florida, as compared to interstate rates from points outside of Florida, has reflected various differences for similar hauls. It is true that the [fol. 1193] present orders of the Florida Commission au-

thorized some rates and it is important to reiterate that because of the adjustment on classes 8 to 12, such condition is always limited to some rates in Peninsular Florida less than for similar hauls from outside points to Florida destinations. This condition is nothing new and, as a matter of fact, was first brought about in Florida by voluntary action of the rail carriers. Exhibits No 132 to No. 138 inclusive, show the relationship of the Florida intrastate rates and the rates applicable from outstate points, effective from June 1, 1929 to the present time and the carriers' proposed rates in Florida. The exhibits do not show all of the changes during the period covered as, in each instance, I have disregarded the time lag when such a time lag existed between the time when increases became applicable on interstate traffic and the time when the comparable increase became applicable on intrastate traffic. I have also disregarded the temporary application of increases under Ex Parte 148 and the interim increases under Ex Parte 148, 162, 166.

Exhibits No. 132 to No. 134 inclusive, show rates to Florida destinations comparing the rate from a Florida point with the contemporaneous rate applicable from an equidistant point outside the state of Florida both of which rates contain, exactly the same Florida arbitrary. Exhibit No. 132 shows classes 1 to 7 inclusive from Thomasville, Georgia and Tallahassee, Florida to St. Petersburg, Florida effective June 1, 1929 to the present time and also the carriers' proposed basis. As shown on page 2 of the exhibit, to St. Petersburg from Thomasville, Georgia the actual distance is 282 miles and the rate making distance, 300 miles. From Tallahassee, Florida the actual distance is 281 miles and the rate making distance, 300 miles. The rates effective on June 1, 1929, reflected the rates prescribed [fol. 1194] in Southern Class Rate Investigation, from Thomasville, Georgia and the rates prescribed by the Florida Commission in Docket No. 1000 from Tallahassee, Florida. The exhibit shows in the first block of rates shown, that the rates from Thomasville, Georgia and Tallahassee, Florida were on exactly the same level. Effective on October 18, 1935, as shown in the second block of rates

on the exhibit, the rate from Tallahassee was readjusted and reflects a spread under the Thomasville, Georgia rate to the same destination ranging from 6 cents to 18 cents. The changed relationship, intrastate, versus interstate traffic, was the result of voluntary action on the part of the railroads. The same differential in favor of intrastate traffic differing only in amount resulting from the horizontal increases in rates continued until August 22, 1947, when the interstate rates were readjusted under the Docket 28300 interim order. Effective on August 22, 1947, the first class rate governed by exceptions ratings applicable on Florida intrastate traffic continued to reflect a 24 cent spread under the interstate rate. However, the different treatment under Docket 28300 accorded Florida as compared to interstate commerce, reduced the spread on rates governed by classification ratings to 9 cents. The present rates which became effective on December 7, 1948, continue to reflect a differential in favor of Florida intrastate traffic but as such differential has existed without protest since October 1935, it seems absurd to consider that now any discrimination present is undue, whereas, for the previous thirteen years it has not been unlawful. The carriers' proposal would continue a first class differential on Florida traffic on rates governed by exceptions ratings but reduce the differential to 12 cents on rates governed by classification ratings. The carriers voluntarily provided an 18 cent [fol. 1195] differential and continued the differential at that level or higher until August 22, 1947.

Exhibit No. 133 is a companion exhibit to Exhibit No. 132 showing the first seven classes from Valdosta, Georgia and Fernandina, Florida to Tampa, Florida, effective on June 1, 1929 to date and the carriers' proposed basis. The rate making distance as shown on page 2 of the exhibit is 240 miles from both origins and as shown by the rates effective June 1, 1929, both rates originally contained the same Florida arbitrary. Exhibit No. 133 shows that effective on October 18, 1935, the intrastate adjustment reflected a substantial spread under the interstate adjustment and that the present rates likewise reflect such a spread. The present rates are the rates which became effective December 7, 1948. The carriers' proposal would

reduce the spread, Florida intrastate rates under interstate rates into Florida, on rates governed by classification ratings, to differentials materially less than the differential effective in 1935 and all subsequent dates up to August 22, 1947.

Exhibit No. 134 is a companion exhibit to Exhibit Nos. 132 and 133, showing the rates on classes 1 to 7 inclusive, from Bainbridge, Georgia and Chattahoochee, Florida to Miami, Florida for a rate making distance of 520 miles. The rates from both origins were on the same level on June 1, 1929 and both contain the same Florida arbitrary. Effective in 1935, the intrastate rates were made less than the interstate rates. A differential exists under the present rates, however, here again the carriers' proposal would reduce the differential on rates governed by the classification ratings to materially less than the differential voluntarily established in October 1935 and continued until August 22, 1947.

[fol. 1196] Exhibit Nos. 135 to 138 inclusive, compare the rates, classes 1 to 7 inclusive, between Florida points with rates for the same rate making distance from outstate points to the same destinations in Florida. The rates are shown in each instance effective June 1, 1929 to the present time and including the carriers' proposal.

Exhibit No. 135 shows classes 1 to 7 from Helena, Georgia and Tampa, Florida to St. Augustine, Florida, a rate making distance of 210 miles. As shown by the first block of rates on the exhibit, the rates from Helena, Georgia to St. Augustine, Florida effective on June 1, 1929 and until October 18, 1935, were less than the rates from Tampa, Florida to the same destination by amounts ranging from 8 cents on first class to 3 cents on seventh class. Effective October 18, 1935, by voluntary action, this advantage to the interstate shipper was exactly reversed, the rates from Tampa, Florida to St. Augustine, Florida becoming less than the rates from Helena, Georgia to the same destination, by amounts ranging from 8 cents on first class to 3 cents on seventh class. That advantage in rate level continued for the Florida shipper until August 22, 1947 when the rates governed by classification ratings from Helena, Georgia were reduced sufficiently to provide rates

the same as or 1 cent less than the rates from Tampa, Florida. The rates governed by exceptions ratings continued the same differential in favor of Tampa as had become effective on April 30, 1947. The readjustment authorized by the Florida Commission effective December 7, 1948 in its Docket No. 1574, the proceeding under attack here, restored a differential in favor of the Florida shipper, a condition which had existed since 1935 and without attack. The carriers' proposal would again provide rates from Tampa, Florida governed by classification ratings the same as, or 1 cent higher than the rates from Helena, Georgia. As to rates governed by the exceptions ratings, [fol. 1197] the whole matter in issue here as to discrimination against the Georgia shipper, is a matter of whether the first class rate from Tampa shall be 14 cents or 20.6 cents less than the rate from Georgia. On fifth class the change in differential is only 2.8 cents, on sixth class 3 cents and on seventh class 2.4 cents.

Exhibit No. 136 is a companion exhibit to Exhibit No. 135 showing the rates from Claxton, Georgia and Fort Lauderdale, Florida to Dunnellon, Florida for a rate making distance of 300 miles. The advantage to the Georgia shipper of 6 cents on first class effective in June of 1929, was converted to a disadvantage of 12 cents on October 18, 1935. The carriers' proposal would practically equalize the Florida rate and the interstate rate on rates governed by classification ratings and provide a differential in favor of the Florida shipper of 19 cents on rates governed by exception ratings. The relationship actually involved as to the rates shown on Exhibit No. 136 is whether the first class differential favoring the Florida shipper should be 19 cents or 26.8 cents. If the rates governed by classification ratings in Florida were treated under the carriers' proposal the same under Ex Parte 162 and Docket 28300 as were the interstate rates, the relative differentials would be about approximately the same as on the rates governed by exception ratings.

Exhibit No. 137 is a companion exhibit to Exhibit No. 135 and No. 136 showing the rates from Charleston, S. C. and Miami, Florida to Oscala, Florida, for a rate making distance of 320 miles. The removal of the Florida arbi-

traries on Florida intrastate traffic effective October 1935, as shown in the first two blocks of rates shown on Exhibit No. 137, converted a disadvantage of the Florida shipper of 8 cents on first class to an advantage of 12 cents. The [fol. 1198] affect of the carriers' proposal as to the amount of increase proposed on Florida intrastate traffic, as compared to interstate traffic on rates governed by classification ratings, may be computed from the rates shown effective November 16, 1939 as compared to the carriers' proposed basis of rates. The rate from Charleston, S. C. of 152 cents effective November 16, 1939 and until June 30, 1946 has been increased to 210 cents, as shown under the carriers' proposed basis, an increase of slightly over 38 per cent. The carriers propose in this proceeding, however, to increase the comparable rate from Miami from 139 cents to 209 cents, an increase of slightly over 50 per cent, or 12 per cent more than the increase on interstate traffic. Computations from the rates shown on Exhibit No. 135 and No. 136 will show similar greater increases proposed on Florida intrastate traffic than on interstate traffic. As to the rates shown on Exhibit No. 137 governed by exception ratings, the whole matter in issue is whether the differential on Florida traffic on first class should be 19 cents or 27.6 cents. Considering that on October 18, 1935 there was a total change in relationship of 20 cents on the first class rates, an 8 cent disadvantage converted to a 12 cent advantage on a rate level which has since been increased 50 per cent that an 8.6 cent reduction in differential loses its importance.

Exhibit No. 138 is a companion exhibit to Exhibits No. 135, No. 136 and No. 137 which shows the rates on classes 1 to 7 inclusive from Atlanta, Georgia and Miami, Florida to Gainesville, Florida for a rate making distance of 360 miles. The relationship between the rates on Florida intrastate traffic and on interstate traffic for the same rate making distance of 360 miles. The relationship between the rates on Florida intrastate traffic and on interstate traffic for the same rate making distance are similar to the [fol. 1199] relationships shown on Exhibit No. 135, No. 136 and No. 137.

As referred to in my previous testimony, the rate level

in Peninsular Florida on class and column rates below column 35R or V is at present higher on Florida intrastate traffic than on interstate traffic for similar hauls. Exhibit No. 139 illustrates this situation showing classes 8 to 12 inclusive, governed by classification ratings to Florida destinations comparing rates from Florida origins with rates from interstate origins for equidistant hauls showing the higher level of Florida intrastate rates. The actual distances shown on the exhibit vary slightly, however, in each instance they reflect the same rate making block. The first block of rates shown illustrates the entire exhibit showing the rates from Tampa, Florida and Savannah, Georgia to Lawtey, Florida for a rate making distance, in each instance, of 170 miles. The rates from Tampa, Florida exceed the rates from Savannah, Georgia by the following amounts: eighth class, 1.8 cents; ninth class, .6 cents; tenth class, .8 cents; eleventh class, .2 cents; twelfth class, .6 cents. The exhibit is designed to show the actual situation and, in a few instances, the interstate rate is slightly above the intrastate rate, for example: to Dunnellon, Florida. However, as shown by the exhibit, the general situation is that rates in Florida are now higher than the comparable interstate rate. As illustrated by the rates shown to Tallahassee, Florida the third block of rates on Exhibit No. 139 to points in northern Florida from points in Peninsular Florida the difference is substantial.

Exhibit No. 140 is a companion exhibit to Exhibit No. 139 showing the rates governed by exception ratings between the same points as shown on Exhibit No. 139. The rates on Florida intrastate traffic as shown by the exhibit, with [fol. 1290] few exceptions, exceed the rates on interstate traffic for similar hauls and, generally, the rates in Florida at present are higher than the interstate rates.

Exhibit Nos. 139 and 140 show the general situation as to relative level of class rates governed by classification ratings or by exception ratings, and also show the relative level of rates made with relation to the class rate structure on all rates, column 35R or V or lower. Exhibit No. 141 shows this relative situation as applied to a specific commodity, to illustrate the *affect* on specific rates. A large number of such exhibits could have been prepared, the

Exceptions Tariff listing some 511 items, itemizing one or more commodities in each item, providing exception ratings lower than column 35R or V. In addition, of course, there are a large number of classification ratings, eighth class and lower. The showing of rates on a large number of specific commodities would have merely been culmative as the illustrations appearing in Exhibit No. 139 and No. 140 show the actual situation. Ex- No. 141 merely applies the relative situation as shown in Exhibit No. 139 and No. 140 to a specific commodity to demonstrate its application.

Exhibit No. 141 is a statement of carload rates on Cereal Food Preparations to destinations in Florida from origins in Florida compared to rates from interstate origins showing the level of rates on Florida intrastate traffic is higher than the interstate level. The exhibit shows both the present rates and the proposed rates in this proceeding. The showing of the exhibit may be illustrated by the rates to Gainesville, Florida, the next to the last destination shown on the exhibit. The rate from Miami, Florida to Gainesville, Florida at present is 73.2 cents, whereas, the rate from Atlanta, Georgia for the same rate making distance is only 70 cents, 3.2 cents less than the rate from [fol. 1201] Miami, for the same rate making distance, 260 miles. The carriers proposed basis of rates to Florida would increase the Miami rate to 76 cents, providing a differential against the Florida shipper of 6 cents per 100 pounds. To all the destinations shown on the exhibit, the rates from the Florida origins are at present the same as the rate from the interstate origin for the same rate making distance to one destination, and higher by amounts ranging from .6 cents to 5.4 cents in the other seven examples. The carriers' proposal would establish a differential against the Florida shipper of from 3 to 9 cents.

The decision of the Florida Commission in its Docket No. 4574 authorized generally, an emergency charge of 20 per cent but adopted the maximum increases prescribed by the Interstate Commerce Commission in Ex Parte 166. The affect of the adoption of these maxima when applied to the carload rates on cement moving in competition with the interstate shipper is that, generally on such competitive

movements, there would be no change on the Florida intrastate rate and the relationship now existing would continue. At the present time, cement is actually produced in Florida only at Tampa, Florida. Exhibit No. 142 is a statement of rates on cement, carloads, from Tampa, Florida and outstate producing points to destinations in Florida showing relationship of present and proposed rates from Tampa with rates to same destinations for equidistant hauls in interstate commerce. There are slight variations shown in the distance, however, in each instance the rates fall in the same rate block in the cement scale. There are five destinations shown comparing rates from Tampa, Florida with rates from Clinchfield, Georgia, Mobile, Alabama, and Birmingham, Alabama to equidistant points in Florida. To four of the destinations shown, the present equality of rates would continue under the carriers' proposal and to the fifth destination, Port St. Joe, Florida, the 1 cent advantage [fol. 1202] of the Birmingham shipper under the present adjustment would likewise continue under the proposed adjustment.

The level of rates on cement, carload, in Peninsular Florida is higher under the present adjustment than the level of rates on cement, carload, moving between points in Southeastern Territory in interstate commerce. Exhibit No. 143 illustates this situation. Exhibit No. 143 is a comparison of carload rates on cement from Tampa, Florida to Florida destinations with rates for similar hauls from Birmingham, Alabama and Mobile, Alabama, to destinations in Southeastern Territory. The differential against the Florida intrastate adjustment, both present and proposed, as shown and in every instance for the same rate making distance, the rate on Florida intrastate traffic is the same as or higher than the interstate rate; the differential against the Florida rates ranging from .8 cents to 4 cents per 100 pounds. The carriers' proposal would increase that difference on the shorter hauls and make no change in the rates on the longer hauls.

The carload rates on common brick from outstate origins to Florida destinations are the same as or generally lower than the present Florida intrastate rates. Exhibit No. 144 shows rates on common brick, carload, from Augusta,

Georgia to destinations in Florida compared with rates on Florida intrastate traffic for similar hauls showing spread Florida over interstate rates. Exhibit No. 144 shows the rates to nine destinations and as shown by column 6 the Florida intrastate adjustment, at present, is ½ cent less than the interstate adjustment to one destination, is the same as the interstate rate to two destinations, is ½ cent higher than the interstate rate to four destinations and 1 cent higher than the interstate rate to two destinations. The carriers' proposal would not change this rela- [fol. 1203] tionship to any of the destinations shown.

On interstate traffic including rates from outstate points to Florida, the carriers have made certain readjustments in the Ex Parte 162 and 166 increases on common brick, carload, resulting in a lesser increase than has actually been applied under the present rates on Florida intrastate traffic. Exhibit No. 145 illustrates this situation. It is a statement of carload rates on common brick effective June 30, 1946 and at the present time to Florida destinations from Augusta, Georgia and under the Florida intrastate scale showing amount of increase under Ex Parte 162 and 166 compared to increase authorized and effective in Florida. The amount of increase since June 30, 1946 in the rate from Augusta, Georgia is shown in column 7 and the amount of increase in the Florida rate for the same distance is shown in column 8. There are ten destinations shown on the exhibit. To one destination the increase from Augusta, Georgia is 3 cents as compared to an increase in Florida of 4½ cents. To eight destinations the increase from Augusta, Georgia is 3½ cents as compared to an increase in Florida of 4½ cents. To the other destination the increase from Augusta, Georgia is 4 cents as compared to 4½ cents in Florida.

The scale of rates applicable on brick, except common brick in Florida, is on a higher level in the scale applicable in Southeastern Territory. This situation is shown in Exhibit No. 146. It shows the scale rates applicable on brick, carload, except common brick between points in Southeastern Territory compared with scale applicable in Peninsular Florida, showing level of rates in Florida is higher than in Southeastern Territory. In Southeastern

Territory there is a special scale applicable on clay brick and articles as described in Item 3395 of C. A. Spaninger [fol. 1204] Agent, Tariff I. C. C. No. 1044, therefore, up to 340 miles, two scales are shown as applicable in Southeastern Territory. Columns 5 and 6 show the spread, the Florida scale over the Southeastern Territory scales on brick and clay brick. As shown in column 5, the Florida scale exceeds the Southeastern Territory scale by amounts ranging from .3 cents to 2 cents for the distances shown except at 50 miles where the Florida scale is ½ cent less than the Southeastern Territory scale. On clay brick the Florida scale exceeds the Southeastern Territory scale by amounts ranging from 1.2 cents to 3.1 cents.

The carriers are here demanding the application of the same increases percentagewise applied to the Florida intrastate structure as has been authorized for application on interstate commerce including, traffic moving on class rates and rates related to the class rates from and to the State of Florida. Representing the Florida shippers we endeavored unsuccessfully in both Ex Parte 162 and Ex Parte 166 proceedings to have the Commission consider specifically the rate structure from and to Florida and the *affect* on the Florida shipper of the carriers' proposals in those two proceedings. We offered very voluminous evidence in Ex Parte 166 with particular relation to the class rate structure, Montgomery Exhibit No. 3 and No. 4. Montgomery Exhibit No. 3 is the exhibit proper and Montgomery Exhibit No. 4 is a narrative explanatory statement of the exhibit. We are here offering very limited testimony on the *affect* of these increases in the interstate rate structure to show the error of the increases applied on that rate structure and to demonstrate that it would be an erroneous action to compound that error by requiring the same increases be applied within the state. Exhibit Nos. 147 to 152 inclusive, deal with the situation just referred to. The exhibits illustrate the condition by showing rates between St. Petersburg, Florida and various [fol. 1205] points in Southeastern Territory. Exhibit Montgomery No. 3 in Ex Parte 166 made a similar showing, however, in addition to St. Petersburg as a Florida point, rates were shown from and to Miami, Orlando and

Tampa, and in addition between those four points and points in Trunk Line, New England and C. F. A. and I. F. A. Territory. The comparative situation shown on Exhibits 147 to 152 inclusive, from and to St. Petersburg, Florida, from and to Southeastern Territory, illustrate the situation from and to other points in Peninsular Florida and also the situation from and to other rate territories.

Exhibit No. 147 is a statement of first class rates governed by exceptions ratings between St. Petersburg, Florida and representative points in Southeastern Territory, showing the inflation in the L-2 arbitrary. The exhibit shows rates from and to eleven points in Southeastern Territory. Column 2 shows the through distance. Column 3 shows the distance in Florida territory that is, the distance for which the Florida arbitrary is applied. Column 4 shows the thru first class rate originally prescribed in Southern Class Rate Investigation, Docket 13494. Columns 5 and 6 show how that thru rate was constructed, column 5 showing the base rate which actually is the Appendix K-2 scale as described at the bottom of the exhibit and column 6 the amount of the Florida arbitrary. Columns 7, 8 and 9 show the present rates, showing the thru rate, the base rate and the L-2 arbitrary. Column 10 shows the amount of increase in the L-2 arbitrary over the arbitrary which was originally prescribed. For example, to the first point shown on the exhibit, Atlanta, Georgia, the arbitrary originally prescribed as shown in column 6 was 16 cents. The arbitrary contained in the present rate is 27 cents, an increase in the arbitrary alone of 11 cents as shown in column 10. The average increase in the arbitrary to the eleven points shown, as shown at the bottom of col-
[fol. 1206] umn 10, is 11 cents.

Exhibit No. 148 is a statement comparing the present ton mile earnings in Florida arbitrary territory and Southeastern Territory except Florida, showing amount earnings in Florida exceed earnings in Southeastern Territory. The ton mile earnings are shown in columns 7, 8 and 9. The earnings between Atlanta, Georgia and St. Petersburg, Florida illustrate the exhibit. Column 7 shows that the first class rates produce ton mile earnings in Florida arbitrary territory of 130.8 mills, whereas, the earnings in

Southeastern Territory are only 104.5 mills, as shown in column 8, 26.3 mills less than the earnings in Florida arbitrary territory as shown in column 9. The present rates between St. Petersburg, Florida and the eleven points in Southeastern Territory as shown on the exhibit, produce an average of 24.3 mills greater ton mile earnings in Florida arbitrary territory than in Southeastern Territory as shown at the bottom of column 9.

Exhibit No. 149 is a comparison of the ton mile earnings originally prescribed with present ton mile earnings showing increase in Florida is greater than between points in Southeastern Territory except Florida. The present ton mile earnings shown in columns 7 and 8 are taken from Exhibit No. 148. Columns 11 and 12 show the increase over the prescribed ton mile earnings in Florida arbitrary territory and in Southeastern Territory. Column 13 shows the amount the increase in Florida arbitrary territory exceeds the increase in Southeastern Territory. The rates between Atlanta, Georgia and St. Petersburg, Florida, and the earnings and increase in earnings, illustrate the showing of the exhibit. The rates applicable at present produce ton mile earnings in Florida arbitrary territory 51.8 mills higher than the ton mile earnings produced by the rates prescribed in Docket 13494 as shown in column 11. The [fol. 1207] increase in earnings in Southeastern Territory, however, is only 41.1 mills as shown in column 12. The present rates provide ton mile earnings in Florida arbitrary territory which have been increased 10.7 mills more than the increase in Southeastern Territory since these rates were prescribed in Docket 13494, as shown in column 13. To the eleven points shown, the increase in ton mile earnings in Florida arbitrary territory exceeds the increase in Southeastern Territory by an average of 9.6 mills as shown at the bottom of column 13.

The relative level of rates from and to Florida is also shown by a comparison of the miles of transportation, the Florida shipper could purchase if his rates were equal to the rates in Southeastern Territory generally. Exhibit No. 150 is a statement of first class rates governed by exceptions ratings and rate making distances between St. Petersburg, Florida and representative points in South-

eastern Territory, with miles of transportation Florida shipper would purchase under the present K-2 scale, showing the excess miles of transportation the Florida shipper is required to purchase. Column 2 shows the present first class rates between the Southeastern points shown in column 1 and St. Petersburg, Florida. Column 3 shows the rate making distances for those rates. Column 4 shows the miles of transportation the rate in column 2 would purchase under the present K-2 scale. Column 5 shows the excess miles of transportation the Florida shipper is required to buy under the present interstate rate adjustment. Column 5 shows that the Florida shipper is required to buy from 100 to 150 miles of transportation more than he would receive under the present K-2 scale application in Southeastern Territory. The average excess transportation the Florida shipper is now paying for is 124 miles as shown at the bottom of column 5.

[fol. 1208] The Commission in Class Rate Investigation, 1939, 262 ICC 447, prescribed a scale of class rates between all points east of the Rocky Mountains including, Peninsular Florida for application in conjunction with a uniform classification to be compiled. The readjustment of rates during this interim period should bring differential territorial rates closer to the basic scales in a given territory. The substantial increases authorized since 1946 without consideration of the differential territories such as, Peninsular Florida, have however, substantially widened that differential. The relative level of rates from and to Florida may be illustrated by a comparison of the rates from and to Florida and the rates in Southeastern Territory for similar hauls with an independent rate scale. Exhibit No. 151 makes this comparison using the Docket 28300 Scale increased 22½% and 25%. Exhibit No. 151 is a statement showing the amount the Florida spread exceeds the Southeastern Territory spread over the Docket 28300 rate. Column 3 shows the present first class rate between St. Petersburg, Florida and the points shown in column 1. Column 4 shows the contemporaneously applicable rate for similar hauls in Southeastern Territory. Column 5 shows the rate for similar hauls under the Docket 28300 Scale increased 22½% and 25%. Column 6 shows the spread of the Florida

rate over the Docket 28300 rate. Column 7 shows the spread of the Southeastern Territory rate over the Docket 28300 rate. Column 8 shows the amount the Florida spread over the Docket 28300 rate exceeds the Southeastern Territory spread over the Docket 28300 rate. To eleven destinations shown, the Florida spread exceeds the Southeastern Territory spread by an average of 27.9 cents, as shown at the bottom of column 8.

Exhibit No. 152 shows the relationship of rates from and to Florida with the rates in Southeastern Territory expressed in miles of transportation each rate would purchase [fol. 1209] under the Docket 28300 Scale increased 22½% and 25%. The exhibit shows the penalty against the Florida shipper expressed excess miles of transportation the Florida shipper is required to purchase. The rates from and to Atlanta, Georgia, the first rate shown, with a rate making distance of 520 miles, the present first class rate as shown in column 3, would purchase 825 miles of transportation under the Docket 28300 Scale increased as shown in column 4, whereas, the rate in Southeastern Territory for the same 520 mile rate making distance, as shown in column 5, would purchase only 700 miles of transportation under the Docket 28300 Scale increased as shown in column 6, 125 miles less than now paid for by the Florida shipper, as shown in column 7. The penalty against the Florida shipper as compared to the Southeastern Territory shipper, related to the Docket 28300 Scale increased, between St. Petersburg, Florida and the eleven Southeastern Territory points shown on the exhibit, would average 133.6 miles of transportation.

(Here follows 1 Paster, side folio 1210)

[fol. 1210]

RESPONDENT'S EXHIBIT No. 170

Florida East Coast Railway Company
Scott M. Loftin and John W. Martin, Trustees

Analysis of Net Railway Operating Income by Services

Year	Freight Service					Passenger Service				
	Revenues	Expenses	Net Revenues	Net Rwy. Operating Income	Ratio Exp. to Revenues	Revenues	Expenses	Net Revenues	Net Rwy. Operating Income	Ratio Exp. to Revenues
1936	$ 5,388,676	$ 3,432,291	$1,956,385	$1,164,368	64	$ 3,225,832	$ 3,083,563	$ 142,269	$ 286,572D	96
1937	5,545,159	3,495,842	2,049,317	1,166,203	63	3,758,047	3,627,461	130,586	424,625D	97
1938	6,201,524	3,627,231	2,574,293	1,558,734	58	3,392,867	3,375,368	17,499	529,242D	99
1939	5,921,301	3,540,316	2,380,985	1,546,165	60	3,340,066	3,593,229	253,162D	802,466D	108
1940	6,540,283	3,808,646	2,731,637	1,874,223	58	4,208,555	4,533,037	324,482D	889,004D	108
Average Year 1936–1940	5,919,389	3,580,865	2,338,523	1,461,939	60	3,585,073	3,642,532	57,458D	586,382D	102
1941	6,580,535	4,015,671	2,563,864	1,813,801	61	4,918,586	4,636,342	282,244	233,274D	94
1942	12,222,558	5,583,960	6,638,598	5,495,343	46	8,615,528	5,897,247	2,718,281	2,378,616	68
1943	17,218,535	8,265,862	8,952,673	5,624,625	48	15,340,550	8,339,011	7,001,539	4,548,854	54
1944	16,088,094	9,404,402	6,683,692	2,867,525	58	15,642,108	9,651,409	5,990,699	3,084,074	62
1945	14,424,894	9,782,521	4,642,373	1,934,065	68	15,146,113	10,792,416	4,353,697	2,467,663	71
Average Year 1941–1945	13,306,923	7,410,683	5,896,240	3,547,072	56	11,932,577	7,863,285	4,069,292	2,449,186	66
1946	16,329,493	11,223,025	5,106,468	3,771,197	69	10,213,995	9,498,796	715,199	520,240	93
1947	17,099,229	12,726,228	4,373,001	3,572,614	74	9,955,105	10,957,056	1,001,951D	2,028,333D	110
1948	18,980,402	12,261,657	6,718,745	4,685,133	65	9,672,797	11,636,152	1,963,355D	2,930,081D	120

D—Denotes Deficit.

Source: Annual Reports on file with the Interstate Commerce Commission.

[fols. 1211-1213] [File endorsement omitted]

IN SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1951, No. 444

[Title omitted]

STATEMENT OF POINTS TO BE RELIED UPON AND DESIGNATION OF PARTS OF RECORD TO BE PRINTED—Filed December 20, 1951

Statement of Points

Appellants adopt for their statement of points upon which they intend to rely in their appeal to this Court the points contained in their assignment of errors heretofore filed.

Designation of Record

Appellants designate the entire record as filed in the above entitled case for printing by the Clerk of this Court.

Lewis W. Petteway, Counsel for Appellants, 700 South Adams Street, Tallahassee, Florida.

[fol. 1214] [File endorsement omitted]

IN SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1951, No. 444

[Title omitted]

AMENDED DESIGNATION OF PARTS OF RECORD TO BE PRINTED—Filed February 4, 1952

Appellants designate the following portions of the record herein for printing by the Clerk of this Court:

1. Complaint of Florida Railroad and Public Utilities Commission.

2. Answer of the United States of America.

3. Answer of the Interstate Commerce Commission.

4. Answer of Atlantic Coast Line Railroad Company and other railroads operating in Florida.

5. Order designating Judges to compose Three-Judge Court.

6. Transcript of final hearing on May 1, 1951 before the Three-Judge Court, including the following portions of the proceeding before the Interstate Commerce Commission in ICC Docket No. 30140 which were received in evidence by said Three-Judge Court:

a. Petition on behalf of railroad companies dated December 3, 1948.

[fol. 1215] b. Order of investigation dated January 5, 1949.

c. Transcript of stenographer's notes of the hearing held by the Interstate Commerce Commission on June 28, 29, and July 1 and 2, 1949.

d. Exhibits 1, 2, 3, 4, 11, 13, 27, 28, 29, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 98, 103, 106, 124, and 170, received in evidence by the Interstate Commerce Commission in said Docket No. 30140.

e. Report of Interstate Commerce Commission dated May 4, 1950.

f. Petition for rehearing filed by the Florida Railroad and Public Utilities Commission—June 19, 1950 (appearing on page 178 of certified record).

g. Order of Interstate Commerce Commission denying petition for rehearing dated July 25, 1950.

h. Final Order of Interstate Commerce Commission dated July 25, 1950.

i. Reply of Respondent railroads filed June 27, 1950, appearing on page 579 of certified record.

j. Petition of Respondents for modification of Order filed September 8, 1950.

k. Order of Interstate Commerce Commission entered September 18, 1950.

7. Opinion delivered by Three-Judge Court.

8. Final Judgment of Three-Judge Court.

9. Petition for Appeal.

10. Assignment of Errors and Prayer for Reversal.

11. Order Allowing Appeal.

12. Citation on Appeal.

13. Supplemental Citation on Appeal.

14. Motion to have certain original records transmitted to the Clerk of the Supreme Court.

15. Order that certain original records be forwarded to the Clerk of the Supreme Court.

[fols. 1216-1217] 16. Motion for Extension of Time for Docketing and Filing Record.

17. Order Extending Time for Docketing and Filing Record.

18. Original Praecipe.

19. Supplemental Praecipe.

20. Appellants' Statement of Points to be Relied Upon.

21. Appellants' Amended Designation of Parts of Record to be printed.

Appellants' stipulate that the parts of the record not printed shall have the same force and effect and may be treated for all purposes as if they were a part of the printed transcript of record.

Lewis W. Petteway, Counsel for Appellants, 700 South Adams Street, Tallahassee, Florida.

The foregoing designation and stipulation have been received and are approved this 1st day of February, 1952.

Philip B. Pearlman, The Solicitor General of the United States, By —— ——, Department of Justice, Washington, D. C.

The foregoing designation and stipulation have been received and are approved this 4th day of February, 1952.

Allen Crenshaw, Assistant Chief Counsel, Interstate Commerce Commission, Washington, D. C.

The foregoing designation and stipulation have been received and are approved this 4th day of February, 1952.

Frank W. Gwathmey, Attorney for Intervening Railroads, 1110 Shoreham Building, Washington, D. C.

[fol. 1218] SUPREME COURT OF THE UNITED STATES

No. 444, October Term, 1951

[Title omitted]

ORDER NOTING PROBABLE JURISDICTION—January 2, 1952

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted.

(1639)